

**SUPERIOR COURT  
OF THE  
STATE OF DELAWARE**

**T. HENLEY GRAVES**  
*RESIDENT JUDGE*

**SUSSEX COUNTY COURTHOUSE  
ONE THE CIRCLE, SUITE 2  
GEORGETOWN, DE 19947**

August 21, 2006

Eric G. Mooney, Esquire  
11 South Race Street  
Georgetown, DE 19947

James W. Adkins, Esquire  
Department of Justice  
114 East Market Street  
Georgetown, DE 19947

**RE: State v. Joseph A. Semyan  
C. A. No. 05X-07-008 THG**

Dear Counsel:

The delay in responding in this matter was due to the hope that the legislature was going to modify the expungement statute. That was taken under advisement by the legislature but was not acted upon in the last session.

This is the case where the Court initially denied Mr. Mooney's Petition for Expungement. Thereafter, I learned that the Supreme Court had determined that a probation before judgment was expungable pursuant to the Supreme Court regardless of the time limitations in 11 Del. C. §4218. Therefore, I reversed myself in the case of *State v. Armiger*, Del. Super., C.A. No. 05X-07-004, Graves, J. (Dec. 12, 2005) (Letter Op.).

Mr. Mooney has asked that since I denied the petition of Mr. Semyan based upon the erroneous interpretation of the probation before judgment statute, I should revisit Mr. Semyan's case. I agree. If there is a wrong, there should be a remedy. After reconsidering the petition, I find that the probation before judgment dismissal should be dismissed. The petition is granted.

**IT IS SO ORDERED.**

Yours very truly,

T. Henley Graves

THG:baj  
cc: Prothonotary